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SENATE BILL 250

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO MINIMUM WAGES; CLARIFYING THE MINIMUM WAGE FOR  
TIPPED EMPLOYEES; AMENDING SECTION 50-4-22 NMSA 1978 (BEING  
LAWS 1955, CHAPTER 200, SECTION 3, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955,  
Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES. --

A. An employer, except as provided in Section  
50-4-21 NMSA 1978, shall pay the minimum wage rate of five  
dollars fifteen cents (\$5.15) an hour, except that an employer  
furnishing food, utilities, supplies or housing to an employee  
who is engaged in agriculture may deduct the reasonable value  
of such furnished items from any wages due to the employee.

B. ~~[All employees covered by]~~ An employee subject

underscoring material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 to Subsection A of this section who customarily and regularly  
2 [~~receive~~] receives more than thirty dollars (\$30.00) a month in  
3 tips shall be paid a minimum hourly wage of [~~two dollars twelve~~  
4 ~~and one half cents (\$2.125)~~] two dollars thirteen cents  
5 (\$2.13). The employer may consider tips as part of wages, but  
6 [~~such a wage credit~~] the tips combined with the employer's cash  
7 wage shall not [~~exceed fifty percent of the minimum wage~~] equal  
8 less than five dollars fifteen cents (\$5.15) per hour. All  
9 tips received by such employees shall be retained by the  
10 employee, except that nothing in this section shall prohibit  
11 the pooling of tips among employees.

12 C. An employee [~~covered by~~] subject to the  
13 provisions of Subsection A of this section shall not be  
14 required to work more than forty hours in any week of seven  
15 days, unless [~~he~~] the employee is paid one and one-half times  
16 [~~his~~] the employee's regular hourly rate of pay for all hours  
17 worked in excess of forty hours. For an employee who is paid a  
18 fixed salary for fluctuating hours and who is employed by an  
19 employer a majority of whose business in New Mexico consists of  
20 providing investigative services to the federal government, the  
21 hourly rate may be calculated in accordance with the provisions  
22 of the federal Fair Labor Standards Act of 1938 and the  
23 regulations pursuant to that act; provided that in no case  
24 shall the hourly rate be less than the federal minimum wage. "